IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

WEDNESDAY, THE TWENTY THIRD DAY OF TWO THOUSAND AND FIVE

PRESENT

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.21493 OF 2004

BETWEEN:

Boda Suryanarayana Murthy s/o Late B.Satyanandam, aged about 62 years, Occ: Business, Proprietor, Kraft Foundation, 1-813, A.D.C.C. Bank Colony, Rudrampeta, Anantapur Mandal, Ananthapur District.

…Petitioner

And

1. Government of Andhra Pradesh rep.by its principal Secretary, Food and Agriculture Department, Secretariat, Hyderabad.
2. Commissioner and Director of Agriculture, Government of Andhra Pradesh, Gunfoundry, Hyderabad.
3. Central Insecticides Board, rep.by its Chairman, Faridabad, New Delhi.

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate writ and direct the

respondents not to interfere with the manufacture and sale of Bio-pesticides (herbal products) by the petitioner at Premises No.1-813, A.D.C.C. Bank Colony, Rudrampeta, Anantapur Mandal, Anantapur District till such time the 3rd respondent does not announce standardized parameters relating to the efficacy of each of the Bio-Pesticides as enumerated in the schedule to the Insecticides Act, 1968.

For the Petitioner: Mr.Vedula Venkataramana, Advocate.

For the Respondents 1 and 2 : G.P., for Food and Agriculture.

For the Respondent No.3 : Mr.A.Rajashekar Reddy, Senior Central Government Standing Counsel.

The Court made the following :

ORDER:

The petitioner seeks to issue a writ of mandamus, directing the respondents not to interfere with the manufacture and sale of bio-pesticides (herbal products) by him at the premises No.1-813, A.D.C.C., Bank Colony, Rudrampeta, Ananthapur Mandal and District, till the Central Insecticides Board announces standardized parameters relating to efficacy of each of the bio-pesticides as enumerated in the schedule to the Insecticides Act, 1968.

The petitioner states that he is manufacturing bio-pesticides, which are meant for use of protection of plants from viral, bacterial, fungal and other infections. He is the proprietor of M/s. Kraft Foundation, Ahmedabad also, which is part of the manufacturing unit at Anantapur. It is stated that unlike conventional chemical pesticides, there are no toxic effects on the plants and produces if bio-pesticides are used. Bio-pesticides promote environmental improvement and long term protection to the plants and trees from the insecticides.

It is stated that the provisions of Insecticides Act, 1968 (Central Act No.46/1968) (for short the Act) has provided for regulation of sale of pesticides. The schedule to the Act has enumerated various insecticides/pesticides, which are based on chemical formulations. In

March 1999, the Government of India issued notification including bio-pesticides also in the schedule to the Act, but till date, the efficacy of bio-pesticides are not evaluated and no parameters are laid down for registration and licence of bio-pesticides. The petitioner addressed a letter to the Central Insecticides Board for grant of No Objection Certificate (NOC) for manufacture of bio-pesticides, but the Central Insecticides Board has replied that NOC., is not required to be issued for bio-pesticides as there is no such provision in the Act.

It is stated that a similar Writ Petition. No.2403 of 2003 was filed by some other manufacturers of bio-pesticides to direct the respondents not to interfere with manufacture and sale of bio-pesticides, till the Central Insecticide Board announces standardized parameters relating to efficacy of each of the bio-pesticide. It is also stated that interim orders were passed by this Court, directing the respondents not to seize the stocks of bio-pesticides. But, in the instant case, the police seized and registered a case in Crime No.146 of 2004 against the petitioner and others for the offence punishable under Section 420 of the Indian Penal Code on the allegation that they have been manufacturing bio-pesticides without any licence from the Agriculture Department.

A counter has been filed on behalf of the third respondent Central Insecticides Board, stating that some bio-pesticides derived from plants such as Neem, Pyrethrum, Karanjin and Clymbopogan were in the schedule to the Act before 1999. In 1999, the Government of India through its notification included bio-pesticides in the schedule to the Act as Trichoderma viride, Pseudomonas flucrescence, Beauveria bassiana, Neclear Polyhedrolsis (NPV). The Registration Committee constituted under Section 5 of the Act formulated the detailed guidelines for registration of bio-pesticides. In fact registered neem based pesticides were registered much before 1999 based on the guidelines formulated by the Registration Committee.

The Registration Committee has been granting certificates of

registration from pesticides based on Bt., Bs., neem, pythrum etc., after evaluating efficacy and safety to human beings, animals and environment. The Registration Committee has no power to grant NOC., for the pesticides included in the schedule. Therefore, the petitioner is required to obtain certificate of registration under Section 9(3) of the Insecticides Act on submission of data of efficacy and safety, for which exhaustive guide lines existing on the website i.e., www.cibrc.nic.in. After obtaining certificate from the registration committee under Section 9 of the Act, the petitioner has to obtain manufacturing licence from the concerned State Department of Agriculture. The petitioner has nowhere indicated as to which bio-pesticide he is manufacturing. The petitioner manufacturing bio-pesticides without obtaining certificate of registration from the Registration Committee and also manufacturing licence from the Agriculture Department of Andhra Pradesh State. It is stated that there are exhaustive guidelines for the registration of bio-pesticides based on plant origin as well as microbial pesticides. Therefore, the relief claimed by him is not maintainable.

The State Government also filed a counter, stating that the following pesticides are scheduled to the Insecticides Act,1968:

Antagonistic Fungi and Bacteria:

a. Bacillus Subtilis.

b. Gllocladium Species.

c. Pseudomonas fluorescens.

d. Trichoderma Species.

Entomogenous Fungi

a. Beauveria bassiana.

b. Metarrhizium anisopllae.

c. Nomuraea rileyi.

d. Verticillium lecnil.

Grannulosis Viruses (G.V)

Nuclear Polyhedrosis Viruses (N.P.V).

Therefore, the petitioner has to register his name with Central Insecticides Board and Registration Committee. The Central Insecticide Board and the Registration Committee prescribed the standardized parameters relating to efficacy of each of the bio-pesticides. In fact, three petitioners in W.P.No.24031 of 2003 have obtained the registration certificate, but the petitioner without mentioning about the active ingredients of the products that are being manufactured by him, states that the bio-pesticides manufactured by him does not include in the schedule to the Insecticides Act, 1968.

It is stated that the standardized parameters relating to the efficacy of each bio-pesticides as enumerated in the schedule to the Act are available with the Central Insecticides Board and Registration Committee and some of the manufacturers have already granted registration certificate and therefore, the petitioner is not entitled for such a relief without obtaining the registration certificate. The Police have seized the alleged pesticides of the petitioner manufactured in the brand name of "**PERFECT**" without specifying the contents and composition of the products on the labels mentioning **"Wonder Remedy for all crops**".

Insecticides means any substance specified in the schedule to the Act or such other substances (including fungicides and weedicides) as the Central Government may, after consultation with the Central Insecticides Board, by notification in the official Gazette, included in the schedule from time to time. Under Section 4 of the Act, the Central Government constituted Central Insecticides Board to advise the Central Government and State Governments on technical matters arising out of the administration of the Act and to carry out the other functions assigned to the Board. Under Section 5 of the Act, the Central Government also constituted the Registration Committee to register insecticides after scrutinizing their formula and verifying

claims made by the importer or manufacturer as regards their efficacy and safety to human beings and animals. Under Section 9 of the Act, any person desiring to import or manufacture any insecticide may apply to the registration committee for registration of such insecticide. Procedure is also prescribed for registration and for grant of registration certificate.

Therefore, the question that arises for consideration as to whether the Central Insecticides Board has not announced the standardized parameters relating to the efficacy of each of the bio-pesticides as enumerated in the schedule to the Insecticides Act, 1968 as alleged by the petitioner.

The Central Insecticides Board filed a counter stating that guidelines/data requirements for registration of bio-pesticides have been issued and communicated by the Department of Agriculture and Co-operation, Ministry of Agriculture, Government of India to All India Biotech Association and others and they are also available on the aforesaid website. But, the petitioner without indicating anything as to which bio-pesticide he is manufacturing, simply filed the writ petition, stating that the third respondent has not announced standardized parameters relating to the efficacy of each of the bio-pesticides as enumerated in the schedule to the Insecticides Act.

Admittedly, guidelines have been issued, requiring the relevant data for registration of bio-pesticides and bio-control agents. The necessary guidelines/data requirements are communicated for registration of the bio-pesticides. Different guidelines for different purposes have been prescribed, therefore, it cannot be said that no guidelines for registration of bio-pesticides based on the plant origin as well as microbial pesticides have not been issued. In view of the said guidelines, the petitioner is not entitled for any relief.

The Writ Petition is accordingly dismissed. However, now that the third respondent issued guidelines exhaustively for registration of

bio-pesticides based on the plant origin as well as microbial pesticides, the petitioner may file an application for registration of his bio-product and on filing such application and fulfilling the required data, the third respondent may consider the grant of registration certificate expeditiously so as to enable him to get the manufacturing licence from the Agriculture Department of State of Andhra Pradesh. No costs.

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V.ESWARAIAH,J

Date: 23-03-2005.

Shr.

Asst.Registrar.

Copies to:

1. The Principal Secretary to Government of Andhra Pradesh, Food and Agriculture Department, Secretariat, Hyderabad.
2. The Commissioner and Director of Agriculture, Government of Andhra Pradesh, Gunfoundry, Hyderabad.
3. The Chairman of Central Insecticides Board, Faridabad, New Delhi.
4. Two CCs., to the G.P., for Food and Agriculture, High Court Buildings, Hyderabad.
5. Two C.D. copies.